

EXHIBIT 169

Haas, Rosemary

August 30, 2007

Washington, DC

Page 1

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

- - - - -x

In re: PHARMACEUTICALS INDUSTRY : MDL No. 1456

AVERAGE WHOLESALE PRICE : Civil Action No.

LITIGATION : 01-12257-PBS

_____:

:

THIS DOCUMENT RELATES TO: : Judge Patti B.

: Saris

United States of America, ex :

rel. Ven-a-Care of the Florida : Magistrate Judge

Keys, Inc., : Marianne B.

CIVIL ACTION NO. 06-11337-PBS : Bowler

- - - - -x

Washington, D.C.

Thursday, August 30, 2007

HIGHLY CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

Videotaped Deposition of ROSEMARY HAAS, a
witness herein, called for examination by counsel
for the United States of America in the

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202-220-4158

Haas, Rosemary

August 30, 2007

Washington, DC

Page 2	Page 4
<p>1 above-entitled matter, pursuant to notice, the</p> <p>2 witness being duly sworn by KAREN YOUNG, a Notary</p> <p>3 Public in and for the District of Columbia, taken at</p> <p>4 the offices of Jones Day, 51 Louisiana Avenue,</p> <p>5 Northwest, Washington, D.C., at 9:05 a.m. on</p> <p>6 Thursday, August 30, 2007, and the proceedings being</p> <p>7 taken down by Stenotype by KAREN YOUNG, and</p> <p>8 transcribed under her direction.</p> <p>9</p> <p>10 APPEARANCES:</p> <p>11</p> <p>12 On Behalf of the Class Plaintiffs in the State</p> <p>13 of Arizona:</p> <p>14</p> <p>15 JENNIFER FOUNTAIN CONNOLLY, ESQ.</p> <p>16 Wexler Toriseva Wallace</p> <p>17 55 West Monroe Street</p> <p>18 Suite 3300</p> <p>19 Chicago, Illinois 60603</p> <p>20 jfc@wtlaw.com</p> <p>21 (312) 346-2222</p> <p>22</p>	<p>1 APPEARANCES:</p> <p>2 On Behalf of Ven-a-Care of the Florida Keys,</p> <p>3 Inc.:</p> <p>4 RAND J. RIKLIN, ESQ.</p> <p>5 Goode Casseb Jones Riklin Choate & Watson</p> <p>6 2122 North Main Avenue</p> <p>7 Post Office Box 120480</p> <p>8 San Antonio, Texas 78212</p> <p>9 riklin@goodelaw.com</p> <p>10 (210) 733-6030</p> <p>11</p> <p>12 On Behalf of Abbott Laboratories:</p> <p>13 TINA M. TABACCHI, ESQ.</p> <p>14 Jones Day</p> <p>15 77 West Wacker</p> <p>16 Chicago, IL 60601-1692</p> <p>17 TMTABACCHI@JONESDAY.COM</p> <p>18 (312) 269-4081</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 Shelly Sanders Kreider, Videographer</p> <p>22</p>
Page 3	Page 5
<p>1 APPEARANCES:</p> <p>2 On Behalf of the United States of America:</p> <p>3 GEJAA T. GOBENA, ESQ.</p> <p>4 JENNIFER CHORPENING, ESQ.</p> <p>5 U.S. Department of Justice</p> <p>6 Civil Division</p> <p>7 Commercial Litigation - Fraud Section</p> <p>8 601 D Street, Northwest</p> <p>9 PHB - 9028 / P.O. Box 261</p> <p>10 Washington, D.C. 20044</p> <p>11 Gejaa.Gobena@usdoj.gov</p> <p>12 (202) 307-1088</p> <p>13</p> <p>14 On Behalf of the State of California:</p> <p>15 NICHOLAS N. PAUL, ESQ.</p> <p>16 Bureau of Medical Fraud & Elder Abuse</p> <p>17 Civil Prosecutions Unit</p> <p>18 P.O. Box 85266</p> <p>19 110 West A Street, #1100</p> <p>20 San Diego, California 92186</p> <p>21 nichols.paul@doj.ca.gov</p> <p>22 (619) 688-6099</p>	<p>1 C O N T E N T S</p> <p>2 THE WITNESS:</p> <p>3 ROSEMARY HAAS</p> <p>4 By Mr. Gobena 8</p> <p>5 By Mr. Riklin 262</p> <p>6 By Mr. Paul 332</p> <p>7 By Ms. Tabacchi 340</p> <p>8 By Mr. Paul 340</p> <p>9</p> <p>10 E X H I B I T S</p> <p>11 EXHIBIT NO. PAGE NO.</p> <p>12 Plaintiff's Exhibit 1350 Federal Register, 6/5/91 20</p> <p>13 Plaintiff's Exhibit 1351 Medicare Working Group Meeting108</p> <p>14 Minutes, 3/6/97</p> <p>15 Plaintiff's Exhibit 1352 Handwritten note, ABT-DOJ 295986 119</p> <p>16 Plaintiff's Exhibit 1353 Landside memo to Taylor, 8/21/97 124</p> <p>17 Plaintiff's Exhibit 1354 Landside memo to de Lasa, 11/7/97 125</p> <p>18 Plaintiff's Exhibit 1355 Haas memo to Luniak, 11/19/97 127</p> <p>19 Plaintiff's Exhibit 1356 Article from the Pink Sheet, 4/10/00 138</p> <p>20 Plaintiff's Exhibit 1357 Handwritten Notes, ABT-DOJ 296395 138</p> <p>21 Plaintiff's Exhibit 1358 Handwritten Notes, 5/3/00 147</p> <p>22 Plaintiff's Exhibit 1359 Article from the Pink Sheet, 6/5/00 175</p>

2 (Pages 2 to 5)

Henderson Legal Services
202-220-4158

Haas, Rosemary

August 30, 2007

Washington, DC

Page 6	Page 8
<p>1 EXHIBITS</p> <p>2 EXHIBIT NO. PAGE NO.</p> <p>3 Plaintiff's Exhibit 1360 HCFA Program Memoranda 181</p> <p>4 Plaintiff's Exhibit 1361 Parver memo to NAIT Members, 9/19/00 189</p> <p>5 Plaintiff's Exhibit 1362 Haas memo to Barmak, 10/27/00 206</p> <p>6 Plaintiff's Exhibit 1363 Stark letter to White, 10/31/00 212</p> <p>7 Plaintiff's Exhibit 1364 Program Memorandum, 11/17/00 219</p> <p>8 Plaintiff's Exhibit 1365 Haas e-mail to Johnson, 11/22/00 222</p> <p>9 Plaintiff's Exhibit 1366 Landside fax to Schumacher, 1/4/01 236</p> <p>10 Plaintiff's Exhibit 1367 Leavenworth e-mail to Haas, 8/28/01 249</p> <p>11 Plaintiff's Exhibit 1368 Leavenworth e-mail to Witenstein, 254</p> <p>12 8/27/02</p> <p>13 Plaintiff's Exhibit 1369 Abbott Position on Medicare Reform 288</p> <p>14 Key Participants</p> <p>15 Plaintiff's Exhibit 1370 Handwritten Notes, ABT-DOJ 296822 300</p> <p>16 Plaintiff's Exhibit 1371 Haas e-mail to Mershimmer and Lane, 308</p> <p>17 11/27/02</p> <p>18 Plaintiff's Exhibit 1372 Haas e-mail to Mershimmer, 11/27/02 316</p> <p>19 Plaintiff's Exhibit 1373 Patel e-mail to Schroeder et al., 319</p> <p>20 12/9/02</p> <p>21</p> <p>22 - - -</p>	<p>1 MR. RIKLIN: Rand Riklin on behalf of the</p> <p>2 relater, Ven-a-Care of the Florida Keys, Inc.</p> <p>3 MS. CONNOLLY: Jennifer Connolly, Wexler</p> <p>4 Toriseva, Wallace, on behalf of the class plaintiffs</p> <p>5 in the state of Arizona.</p> <p>6 MR. PAUL: Nicholas Paul, California</p> <p>7 Department of Justice, for California.</p> <p>8 MS. TABACCHI: Tina Tabacchi on behalf of</p> <p>9 Abbott Laboratories. At this time we assert an</p> <p>10 objection to the notice of the class plaintiffs as</p> <p>11 untimely.</p> <p>12 THE VIDEOGRAPHER: You're on the record.</p> <p>13 Whereupon,</p> <p>14 ROSEMARY HAAS,</p> <p>15 called for examination by counsel for</p> <p>16 The United States of America and having</p> <p>17 been duly sworn by the Notary Public, was</p> <p>18 examined and testified as follows:</p> <p>19 - - -</p> <p>20 EXAMINATION BY COUNSEL FOR</p> <p>21 THE UNITED STATES OF AMERICA</p> <p>22 BY MR. GOBENA:</p>
Page 7	Page 9
<p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Here marks the</p> <p>3 beginning of Videotape Number 1 in the deposition of</p> <p>4 Rosemary Haas, taken by counsels for the plaintiff</p> <p>5 in the matter in re Pharmaceutical Industry Average</p> <p>6 Wholesale Price Litigation, in the United States</p> <p>7 District Court, District of Massachusetts, MDL</p> <p>8 Number 1456, Civil Action Number 01-12257-PBS, held</p> <p>9 at the offices of Jones Day, 51 Louisiana Avenue,</p> <p>10 Northwest, Washington, D.C., on August 30th, 2007.</p> <p>11 The time indicated on the video screen, the time on</p> <p>12 the screen is 9:05:42.</p> <p>13 My name is Shelly Sanders Kreider, and I</p> <p>14 am the certified legal video specialist operating</p> <p>15 the equipment today. The court reporter is Karen</p> <p>16 Young. We are employed by Henderson Legal Services.</p> <p>17 Counsel will now introduce themselves and the</p> <p>18 parties they represent.</p> <p>19 MR. GOBENA: Gejaa Gobena, Department of</p> <p>20 Justice, on behalf of the United States.</p> <p>21 MS. CHORPENING: Jennifer Chorpening,</p> <p>22 Department of Justice.</p>	<p>1 Q. Good morning, Ms. Haas. As I mentioned</p> <p>2 earlier, my name is Gejaa Gobena. I'm a trial</p> <p>3 attorney with the United States Department of</p> <p>4 Justice, and you're here this morning to give</p> <p>5 testimony in several cases, one of which is United</p> <p>6 States ex rel. Ven-a-Care of the Florida Keys versus</p> <p>7 Abbott Labs. Have you ever had your deposition</p> <p>8 taken before?</p> <p>9 A. Yes.</p> <p>10 Q. Could you describe to us the circumstances</p> <p>11 in which you had that deposition taken?</p> <p>12 A. It was a personal matter related to some</p> <p>13 real estate that my husband and I were involved in.</p> <p>14 This was about ten years ago.</p> <p>15 Q. I see. So you probably were given some</p> <p>16 instructions then as to how to respond to questions,</p> <p>17 but I want to start off by giving you a few</p> <p>18 instructions here so that we can have the deposition</p> <p>19 go smoothly this morning. The first thing is that</p> <p>20 the most important rule for today is for you to give</p> <p>21 audible responses. If you gesture or you give</p> <p>22 ambiguous answers like uh-huh or things like that,</p>

3 (Pages 6 to 9)

Henderson Legal Services
202-220-4158

Haas, Rosemary

August 30, 2007

Washington, DC

Page 26	Page 28
<p>1 the last seven years that my recollection is of 2 that. 3 Q. And when you say the pharmaceutical 4 division, are you talking about the Pharmaceutical 5 Products Division? 6 A. Yes. 7 Q. And there's also an M. Heggie there. Do 8 you know what that -- who that might be referring 9 to? 10 A. Yes. 11 Q. Is that Michael Heggie? 12 A. Yes. 13 Q. And do you know -- does Michael Heggie 14 still work at Abbott? 15 A. I don't believe so. 16 Q. Do you recall approximately the earliest 17 time period in which you had a chance to work with 18 Mr. Heggie on any issues? 19 MS. TABACCHI: Object to the form. 20 A. I don't recall the time period. 21 Q. Do you recall any job titles that 22 Mr. Heggie held at Abbott?</p>	<p>1 may refresh your recollection. There's also listed 2 an M. King. Do you know who that might be a 3 reference to? 4 A. No. 5 Q. And a D. Robertson, do you see that there? 6 A. Uh-huh. 7 Q. Do you know who that might be a reference 8 to? 9 A. No. 10 Q. Did you know a Don Robertson who worked at 11 Abbott Laboratories at some point during your tenure 12 there? 13 A. The name sounds familiar but I didn't know 14 him. 15 Q. There's also a J. Ward listed there. Do 16 you know who that might be a reference to? 17 A. No. 18 Q. Did you ever have an opportunity to become 19 acquainted with a John Ward during your time period 20 at Abbott? 21 A. No. 22 Q. If you go to the first paragraph there of</p>
Page 27	Page 29
<p>1 A. I don't recall his job titles. 2 Q. Do you recall the areas of -- types of 3 issues that you worked on with Mr. Heggie? 4 MS. TABACCHI: Object to the form. 5 A. I didn't work on any job -- on any issues 6 with Mr. Heggie. 7 Q. Okay. Did you ever talk to Mr. Heggie 8 about any topics while at Abbott? 9 MS. TABACCHI: Object to the form. 10 A. I don't recall. 11 Q. So you don't recall any conversations you 12 had with Mr. Heggie at any time period. 13 MS. TABACCHI: Object to the form. 14 A. I had conversations with Mr. Heggie, but I 15 can't recall what the issue was. 16 Q. Do you have any recollection whether or 17 not the conversations related in any way to any 18 legislation that was pending in Congress as it may 19 affect Abbott? 20 MS. TABACCHI: Object to the form. 21 A. It's possible, but I don't recall. 22 Q. We'll look at some documents later on that</p>	<p>1 Exhibit 903, it reads, "On June 5th, HCFA published 2 the proposed rule on physician payment reform." 3 Before I go any further, Ms. Haas, do you understand 4 what that HCFA might be a reference to there? 5 A. Yes. 6 Q. That would be the Health Care Finance 7 Administration, correct? 8 A. Yes. 9 Q. And that's the entity within the 10 Department of Health and Human Services that 11 administers the Medicaid and Medicare programs, 12 correct? 13 A. Yes. 14 Q. Let's continue on here. It says, "This 15 rule included a proposal to lower the payment for 16 drugs," quote, "incident to," unquote, "a 17 physician's services to average wholesale price 18 minus 15 percent." Do you see that there? 19 A. Yes. 20 Q. Okay, and you recall the last exhibit we 21 looked at, Plaintiff's Exhibit 1350, was a proposed 22 rule that discussed lowering the reimbursement for</p>

8 (Pages 26 to 29)

Henderson Legal Services
202-220-4158

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 30</p> <p>1 Part B drugs to 85 percent of AWP. Do you recall 2 that?</p> <p>3 A. Yes.</p> <p>4 Q. And then if you go on further down in this 5 memorandum, there's a subsection titled "Major 6 Issues." Do you see that there?</p> <p>7 A. Yes.</p> <p>8 Q. And I'm not going to go over every single 9 one of them, but there's a variety of issues there 10 that are listed by Ms. Tobiason. Do you see that 11 there?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have any knowledge as to whether or 14 not the issues that are listed there, and take a 15 moment if you need to to look at them, were 16 discussed within the government affairs department 17 in approximately June of 1991?</p> <p>18 A. I don't have any knowledge of these being 19 discussed in government affairs.</p> <p>20 Q. Is it your understanding that perhaps 21 during this time period, that when it came to 22 regulations that were being promulgated by the</p>	<p style="text-align: right;">Page 32</p> <p>1 specifically what your responsibilities were once 2 you held that title of Washington rep for Abbott?</p> <p>3 A. It involved more engagement outside of the 4 office with our trade associations and representing 5 in business meetings and more closely monitoring 6 legislative activities and providing reports on 7 those. I also had some legislative responsibility 8 for environmental issues.</p> <p>9 Q. And did your job title change at any point 10 after you became a Washington representative for 11 Abbott?</p> <p>12 A. Yes.</p> <p>13 Q. And what was your next sort of job title 14 that you got?</p> <p>15 A. My recollection was it was manager of 16 government affairs.</p> <p>17 Q. And approximately when did you get 18 promoted -- that was a promotion, right?</p> <p>19 A. Yes. It's difficult to say. As I say, 20 there wasn't a clear line of demarcation, and I can 21 say that my duties didn't change significantly from 22 one position to the next; more that it evolved over</p>
<p style="text-align: right;">Page 31</p> <p>1 Department of Health and Human Services, that any 2 tracking or analysis of them were done by individual 3 business units within Abbott Laboratories?</p> <p>4 MS. TABACCHI: Object to the form.</p> <p>5 BY MR. GOBENA:</p> <p>6 Q. And do you understand what I mean by the 7 business units?</p> <p>8 A. Yes. I'm not sure.</p> <p>9 Q. And did you know that at some point, 10 Ms. Tobiason worked in the business unit within 11 Abbott called the Hospital Products Division?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Now, you mentioned that you -- 14 in the early '90s, you transitioned into a 15 Washington rep --</p> <p>16 A. Uh-huh.</p> <p>17 Q. -- on behalf of Abbott; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And what were your -- were there any 20 changes relating to your job responsibilities? You 21 talked about the metamorphosis of the job 22 responsibilities over time, but can you give me</p>	<p style="text-align: right;">Page 33</p> <p>1 time.</p> <p>2 Q. So there was a further evolution from -- 3 in your job responsibilities from when you were a 4 Washington rep to now I guess a manager --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- for Washington affairs? Was that the 7 title?</p> <p>8 A. I don't recall.</p> <p>9 Q. It was a manager within the Washington 10 office?</p> <p>11 A. It was basically a way to get a promotion.</p> <p>12 Q. I see.</p> <p>13 A. The title really didn't matter.</p> <p>14 Q. Could you describe the evolution of your 15 job responsibilities as you transitioned to a 16 manager within the Washington affairs office?</p> <p>17 A. As I said, I took on more responsibility 18 for representing the company at -- inside Washington 19 meetings, with trade associations and business 20 groups and more interaction with Capitol Hill.</p> <p>21 Q. So now that you're -- I'm sorry. When you 22 became a manager for Washington affairs, is that the</p>

9 (Pages 30 to 33)

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 50</p> <p>1 it adds language to clarify that the secretary 2 should reimburse for a single-source drug based on 3 the AWP of the drug and not the AWP of a similar 4 drug. If this language is offered, we hope that 5 Senator Graham will support it. Thank you, Cindy." 6 The Cindy is a reference to Cynthia Sensibaugh, 7 correct? 8 A. Yes. 9 Q. And did you in 1996 work on any of these 10 issues related to proposed legislation as it affects 11 Medicare reimbursement for drugs? 12 A. No. 13 Q. So -- and if you turn to the second page, 14 you see some language there. You see an attachment 15 here that describes some proposed legislative 16 language. Did you ever review similar types -- or 17 this document or similar types of documents as they 18 relate to the way that Medicare pays for drugs in 19 1996? 20 MS. TABACCHI: Object to the form. 21 A. That's a broad question. 22 Q. Okay.</p>	<p style="text-align: right;">Page 52</p> <p>1 1996? 2 MS. TABACCHI: Object to the form. 3 A. I wouldn't -- I couldn't answer that. 4 Q. Is that because you don't recall whether 5 you had that understanding in 1996, that you can't 6 answer the question? 7 A. I can't answer the question because I 8 wasn't involved with this in 1996. 9 Q. I'm going to hand you a document that's 10 been previously marked as Exhibit 1170 in this case. 11 A. Do you want me to be looking at the 12 attachment as well? 13 Q. Yeah, I want you to look at the 14 attachment, but I'm only going to focus on the first 15 two pages. 16 A. It only has two pages, so -- 17 Q. You only have two pages? 18 A. Yes. 19 Q. Yeah, the attachment has two pages. 20 You're right. I meant I'm only going to focus on 21 the first two pages of the entire exhibit. 22 A. Okay.</p>
<p style="text-align: right;">Page 51</p> <p>1 A. Can you be more specific? 2 Q. Sure. In 1996, would you have been -- 3 would you have been one -- would you have actually 4 looked at documents similar to the ones that are 5 attached here to this fax from Ms. Sensibaugh to 6 Mr. Ribbentrop? 7 MS. TABACCHI: Object to the form. 8 A. I did not look at this document. 9 Q. But in the mid-'90s, '96 time frame, did 10 you review documents that related to the way that 11 Medicare reimbursed for drugs? 12 A. I don't recall. 13 Q. If you go to the first section there of 14 this attachment, and this is ABT-DOJ 295991, it 15 says, "Under current law, Medicare payment for 16 outpatient prescription drugs is generally limited 17 to the drugs that cannot be," quote, 18 "self-administered," unquote. "Unless otherwise 19 required to be made on a prospective payment basis, 20 payments are generally made on the basis of 21 reasonable cost." Does this language here reflect 22 your understanding of the state of Medicare law in</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. You see it's a document that's dated 2 December 13th, 1996? 3 A. Yes. 4 Q. And there's a reference there in the re 5 line to a Medicare working group. Do you see that? 6 A. Yes. 7 Q. And you're one of the addressees of this 8 memorandum, correct? 9 A. Yes. 10 Q. So does this document indicate to you that 11 there was a Medicare working group at Abbott in 12 which you were a participant in 1996? 13 A. Yes. 14 Q. And do you recall actually attending, 15 whether in person or by phone, meetings involving 16 the Medicare working group? 17 A. Yes. 18 Q. And how would you attend? In person or by 19 telephone? 20 A. By telephone. 21 Q. Okay. And looking at the to line of this 22 memorandum, do you recall any of the people in this</p>

14 (Pages 50 to 53)

Henderson Legal Services
202-220-4158

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 54</p> <p>1 to line that attended meetings of the Medicare 2 working group in or around December of 1996? 3 MS. TABACCHI: Object to the form. 4 A. I could not say as to whether these people 5 attended. I wasn't in the room. 6 Q. I see, so they didn't -- the participants 7 -- well, let me strike that. Did these meetings 8 take place at Abbott's headquarters in Illinois, the 9 Medicare working group meetings? 10 A. I believe so. 11 Q. And when you were in Washington and there 12 were meetings taking place in Illinois, you would 13 phone in, correct? 14 A. Correct. 15 Q. But when you called in, no one was 16 identifying -- no one identified themselves at the 17 beginning of the meeting? Beginning of a given 18 Medicare working group meeting, I should say. 19 A. That may have happened but I don't recall. 20 Q. Do you recall being in Medicare working 21 group meetings where Ms. Babington was 22 participating, to the best of your knowledge?</p>	<p style="text-align: right;">Page 56</p> <p>1 working group meetings as well? 2 MS. TABACCHI: Object to the form. 3 A. Occasionally. 4 Q. How frequently would you attend by 5 telephone meetings of the Medicare working group? 6 A. Periodically, perhaps monthly. 7 Q. And did Mr. Landside always participate 8 in the Medicare working group calls that you were 9 involved in? 10 A. No. 11 Q. So sometimes they'd just be you by 12 yourself participating in the Medicare working group 13 calls? 14 A. Yes. 15 Q. Did Ms. Sensibaugh participate in Medicare 16 working group calls as well, to your knowledge? 17 A. I don't see her on the distribution of 18 this one. She may have been on maternity leave at 19 that time. I don't know if she participated in any 20 subsequent meetings. 21 Q. If you go to the first paragraph, 22 Mr. Rieger writes in this memorandum, "In</p>
<p style="text-align: right;">Page 55</p> <p>1 A. I frankly do not remember Cathy Babington 2 being on any of the calls personally. 3 Q. Okay. And did you recall Mr. Rieger being 4 on the calls? 5 A. Yes. 6 Q. How about Ms. Tobiason, do you recall her 7 being on the calls where you were calling into 8 meetings of the Medicare working group? 9 A. She may have been, but I don't recall her 10 actual participation. 11 Q. How about Mr. Tootell? Do you recall him 12 being on the calls you participated in involving the 13 Medicare working group in this time frame of late 14 1996? 15 A. I could not recall the specific meeting 16 that he would have been participating, but he did 17 participate in some of the calls. I can recall 18 that. 19 Q. And Mr. Landside's listed there in the to 20 line, correct? 21 A. Uh-huh, yes. 22 Q. Did he also participate in these Medicare</p>	<p style="text-align: right;">Page 57</p> <p>1 preparation for next week's meeting, I'm attaching 2 the most recent version of the proposed Abbott 3 position paper" -- sorry, "proposed Abbott position 4 re Medicare reform for your review." You've had a 5 chance to look at the attachment, correct? 6 A. Uh-huh. 7 Q. Do you recognize that document that's 8 attached to this memorandum? 9 A. I am sure I saw this document. 10 Q. And the next sentence of that paragraph on 11 the cover sheet reads, "This is" -- "This is based 12 upon the original document that was presented by Don 13 Buell on November 25th, 1996 and the input that each 14 of you has provided since then." Do you see that 15 there? 16 A. Yes. 17 Q. Do you recall whether you provided input 18 on this proposed Abbott position paper re Medicare 19 reform that was drafted in or around November or 20 December of 1996? 21 A. No, I do not recall. 22 Q. Do you recall whether anyone in the</p>

15 (Pages 54 to 57)

Henderson Legal Services
202-220-4158

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 58</p> <p>1 government affairs department provided any input 2 into the draft, or sorry, proposed Abbott position 3 paper re Medicare reform? 4 A. No. 5 Q. Do you recall having any discussions with 6 Mr. Landside about the proposed Abbott position 7 paper re Medicare reform? 8 A. No. 9 Q. Do you know whether the proposed Abbott 10 position paper re Medicare reform was actually 11 finalized? 12 A. No. 13 Q. If it was finalized, what's your 14 understanding as to how the position paper would be 15 used? 16 MS. TABACCHI: Object to the form. 17 A. Just that because a position paper might 18 have been finalized doesn't mean that it was 19 approved. 20 Q. Are you familiar with any other position 21 papers that Abbott's put out on public policy 22 issues?</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. This document or documents like it. I 2 mean -- 3 A. I believe that's too broad of a question. 4 Q. Okay. Let's see if we can make it a 5 little bit simpler. 6 A. Thank you. 7 Q. If this paper was finalized and issued -- 8 A. Uh-huh. 9 Q. The position paper, would you have used it 10 in part -- used it or referred to it in preparing to 11 make presentations to members of Congress about 12 issues related to Medicare reform in this time 13 period? 14 MS. TABACCHI: Object to the form. 15 A. If this paper had been finalized and if it 16 had been approved by senior management, including 17 our federal government affairs staff, it would have 18 formed the basis for our messaging with Capitol 19 Hill. 20 Q. You mentioned approvals by senior 21 management. Would approval be required from people 22 in the public affairs division within Abbott prior</p>
<p style="text-align: right;">Page 59</p> <p>1 MS. TABACCHI: Object to the form. 2 A. It's possible, but I don't recall 3 specifically. 4 Q. If there was a position paper put out on a 5 public policy issue, is that something your office 6 would have worked on? 7 MS. TABACCHI: Object to the form. 8 A. If it was going to become part of our 9 responsibilities to present that position. 10 Q. So from time to time, Abbott presents 11 positions that it has on policy issues to 12 governmental entities, correct? 13 MS. TABACCHI: Object to the form. 14 A. Position papers would form the basis of 15 what our lobbying strategies would be. 16 Q. So a paper like this would help guide you 17 in discussions that you had with let's say members 18 of Congress about a particular Medicare reform 19 issue, correct? 20 MS. TABACCHI: Object to the form. 21 A. Are you speaking directly to this 22 document?</p>	<p style="text-align: right;">Page 61</p> <p>1 to issuance of this type of position paper, to your 2 knowledge? 3 MS. TABACCHI: Object to the form. 4 A. Yes. 5 Q. And why would public affairs be involved 6 in the approval process of a position paper? 7 MS. TABACCHI: Object to the form. 8 A. Well, for public affairs particularly 9 being the public affairs professionals, they would, 10 like us, want to be sure that the positions we were 11 representing out in the world were consistent with 12 Abbott's mission. 13 Q. So they helped make sure that the message 14 was consistent that Abbott was sending out, whether 15 it -- strike that. So they just wanted to make sure 16 that the public policy positions match up with 17 Abbott's ultimate mission; is that correct? 18 MS. TABACCHI: Object to the form. 19 BY MR. GOBENA: 20 Q. Sorry. What was that? 21 A. Yes. 22 Q. I'm going to hand you a document,</p>

16 (Pages 58 to 61)

Henderson Legal Services
202-220-4158

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 62</p> <p>1 Ms. Haas, that's been previously marked as 2 Plaintiff's 1121 in this case, and I'm only going to 3 ask you about the first three pages of it, so why 4 don't you take a minute to look at that. Ms. Haas, 5 you're listed as a recipient of this interoffice 6 correspondence from Richard Rieger dated December 7 20th, 1996, correct? 8 A. Yes. 9 Q. And in the re line, it says, "The Medicare 10 working group." Do you see that there? 11 A. Yes. 12 Q. And you were still a member of the 13 Medicare working group as of December 20th, 1996, 14 correct? 15 A. Yes. 16 Q. If you go to the first paragraph, it says, 17 "Attached is the information that Mike Tootell 18 referenced in our most recent Medicare working group 19 meeting and which he asked me to circulate. It 20 addresses the topics of average wholesale prices and 21 competitive bidding." Do you see that there? 22 A. Yes.</p>	<p style="text-align: right;">Page 64</p> <p>1 discussing average wholesale price? 2 A. I believe at that time Congress was 3 looking to make changes in the program. 4 Q. I want to turn your attention to the 5 attachment, the first one, or the one I asked you to 6 look at, Medicare Part B payment for drugs, average 7 wholesale price issue. Actually, first I want to 8 jump ahead to ABT -- there are so many Bates numbers 9 here, so let's pick one. 53269? 10 A. Uh-huh. 11 Q. And in the top there, there's an entity 12 listed called the Coalition To Preserve Health Care 13 Quality and Competition. Do you see that? 14 A. Yes. 15 Q. I guess that's a group within something 16 called the National Association of Medical Equipment 17 Services. Do you see that? 18 A. Yes. 19 Q. Are you familiar with either entity? 20 A. No. 21 Q. So they're not one of the trade groups 22 that you worked with during your time period as a</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Do you recall participating in Medicare 2 working group meetings where the issue of average 3 wholesale price was discussed? 4 A. I recall participating in meetings where 5 Mike and others presented proposed position papers. 6 Q. So you recall Mike Tootell specifically as 7 being someone who spoke and presented papers during 8 those Medicare working group meetings, correct? 9 A. Yes. 10 Q. Now, you said -- you mentioned others. Do 11 you have any recollection who those others were who 12 participated in Medicare working group discussions 13 about average wholesale price? 14 A. About average wholesale price? 15 Q. Yes. 16 A. No. 17 Q. But during these calls, other people 18 spoke, correct, about average wholesale price? 19 MS. TABACCHI: Object to the form. 20 A. Perhaps. 21 Q. Do you have any understanding as to why in 22 December of 1996, the Medicare working group was</p>	<p style="text-align: right;">Page 65</p> <p>1 Washington rep or afterwards, or other titles at 2 Abbott? 3 A. No. 4 Q. Okay. Let's go through the issue portion 5 of this attached document. It reads in the first 6 sentence first paragraph, "Currently, Medicare pays 7 for those drugs that are not reimbursed on a 8 prospective payment basis or cost basis at the 9 lesser of average wholesale price or the actual 10 acquisition cost of the drug." Do you see that 11 sentence there? 12 A. Yes. 13 Q. Is that consistent with your understanding 14 as to how Medicare paid for drugs in this time frame 15 of December 1996? 16 MS. TABACCHI: Object to the form. 17 A. Assuming that whoever wrote this document 18 was accurate. 19 Q. But you had an understanding in December 20 1996 as to how Medicare reimbursed for drugs, 21 correct? 22 MS. TABACCHI: Object to the form.</p>

17 (Pages 62 to 65)

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 66</p> <p>1 A. At a very top level.</p> <p>2 Q. And you knew that average wholesale price</p> <p>3 was an element of how Medicare reimbursed for drugs</p> <p>4 in December of 1996, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall reviewing this document, by</p> <p>7 the way, Ms. Haas?</p> <p>8 A. No.</p> <p>9 Q. Would this have been the kind of material</p> <p>10 that you would have reviewed when you received this</p> <p>11 interoffice correspondence regarding the Medicare</p> <p>12 working group in this time period?</p> <p>13 A. If I was working on this issue.</p> <p>14 Q. Were you working in some way on the issue</p> <p>15 of average wholesale price in 1996 or so?</p> <p>16 A. No, I was not.</p> <p>17 Q. Who in your office would have been the</p> <p>18 person most likely to have been tracking these</p> <p>19 average wholesale price issues in the '96-'97 time</p> <p>20 frame?</p> <p>21 MS. TABACCHI: Object to the form.</p> <p>22 A. I would say I don't know if there was</p>	<p style="text-align: right;">Page 68</p> <p>1 appropriateness of using AWP as a determining factor</p> <p>2 for payment." Were you aware of studies and</p> <p>3 investigations taking place in the mid-'90s</p> <p>4 regarding AWP?</p> <p>5 A. Yes.</p> <p>6 Q. And did you ever review the actual studies</p> <p>7 or any reports related to AWP in this time period?</p> <p>8 MS. TABACCHI: Object to the form.</p> <p>9 A. No, no.</p> <p>10 Q. You just had an awareness that there were</p> <p>11 reports out there regarding the AWP issue.</p> <p>12 A. Yes.</p> <p>13 Q. Did anyone in your office to your</p> <p>14 knowledge collect and review reports from let's say</p> <p>15 the Department of Health and Human Services</p> <p>16 regarding AWP issues?</p> <p>17 A. I don't recall.</p> <p>18 Q. Do you recall ever seeing copies of any</p> <p>19 reports from HHS or HHS OIG regarding AWP related</p> <p>20 issues?</p> <p>21 MS. TABACCHI: Object to the form.</p> <p>22 A. Yes.</p>
<p style="text-align: right;">Page 67</p> <p>1 anyone tracking these particular issues in this time</p> <p>2 frame.</p> <p>3 Q. Well, we saw a previous exhibit where</p> <p>4 there's a fax from Ms. Sensibaugh to a Dick</p> <p>5 Ribbenthorp in June '96 related to average wholesale</p> <p>6 price issues, correct?</p> <p>7 A. Correct.</p> <p>8 Q. So is it fair to say that Ms. Sensibaugh</p> <p>9 was at least one of the people in your office who</p> <p>10 was working on average wholesale price related</p> <p>11 issues in this '96-'97 time frame?</p> <p>12 MS. TABACCHI: Object to the form.</p> <p>13 A. I can't say that she was working on AWP</p> <p>14 issues. Apparently according to this memo, she was</p> <p>15 working on a particular legislative position on the</p> <p>16 issue, but as to whether she was tracking or</p> <p>17 monitoring, I have no knowledge of that.</p> <p>18 Q. Let's skip ahead to the industry options</p> <p>19 portion of this memo. Actually, no, strike that.</p> <p>20 Let's stick with the first section, the issue part.</p> <p>21 In the second paragraph, it reads, "There have been</p> <p>22 several studies and investigations into the</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. So there were copies in your office.</p> <p>2 MS. TABACCHI: Object to the form.</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall whose office you might have</p> <p>5 seen copies of those reports related to AWP issues</p> <p>6 in?</p> <p>7 MS. TABACCHI: Object to the form.</p> <p>8 A. There may have been copies in my office.</p> <p>9 Q. I see. So you might have received copies</p> <p>10 of the reports, correct?</p> <p>11 A. Yes.</p> <p>12 MS. TABACCHI: Object to the form.</p> <p>13 BY MR. GOBENA:</p> <p>14 Q. But it's your testimony today that you</p> <p>15 don't recall actually reviewing the reports that</p> <p>16 were issued by the Department of Health and Human</p> <p>17 Services or OIG relating to AWP?</p> <p>18 MS. TABACCHI: Object to the form.</p> <p>19 A. I don't recall reading them, but I was</p> <p>20 aware of the issues around the appropriateness of</p> <p>21 AWP.</p> <p>22 Q. And what do you recall were some of the</p>

18 (Pages 66 to 69)

Henderson Legal Services
202-220-4158

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 86</p> <p>1 work that led up to passage of the Part D drug 2 benefit in 2002 and 2003. 3 Q. Did part of that work involve tracking any 4 proposed changes in the way that Medicare was 5 reimbursing -- was going to be reimbursing for drugs 6 after passage of the Medicare Modernization Act? 7 A. No. 8 Q. So as we -- as you testified earlier, 9 you're aware that that was a transition from using 10 AWP to using ASP that was part of the Medicare 11 Modernization Act of 2003. You remember that 12 testimony? 13 A. Yes. 14 Q. Okay. And is it your testimony that you 15 weren't the one in the Washington affairs office who 16 was following that part of the legislation? 17 A. That was not an issue we followed and 18 participated in as part of the Medicare Part D drug 19 benefit. 20 Q. This has been previously marked, 21 Ms. Sensibaugh, as Plaintiff's 1123. 22 MS. TABACCHI: Ms. Haas.</p>	<p style="text-align: right;">Page 88</p> <p>1 and the subject matter, is this the kind of document 2 that you would have personally reviewed after 3 receiving it? 4 A. Not necessarily. 5 Q. And why do you say not necessarily? 6 A. This was an internal activity to discuss 7 issues that were policy issues that were being 8 presented in Congress, and I might have -- I wasn't 9 working on these particular issues, so if I got 10 this, saw the cover, I might have just put it aside. 11 Q. As you go to the re line, it says re 12 Medicare working group meeting. Do you see that? 13 A. Yes. 14 Q. And we've already established that you 15 participated in multiple Medicare working group 16 meetings, correct? 17 A. Yes. 18 Q. And it says in the first paragraph the 19 next Medicare working group meeting will be held on 20 Tuesday January 21st, 1997 from 8:00 a.m. to 9:30 21 a.m. in a conference room. Do you see that there? 22 A. Yes.</p>
<p style="text-align: right;">Page 87</p> <p>1 BY MR. GOBENA: 2 Q. Oh, sorry. Did I call you Ms. Sensibaugh? 3 A. We're both short, so -- 4 Q. You guys do look kind of alike. 5 A. She's from South Carolina. I'm from 6 Pittsburgh, so -- 7 Q. Why don't you take a moment, Ms. Haas, to 8 look at the first three pages of this document that 9 I've handed you. You've had a chance to review the 10 document? 11 A. Yes. 12 Q. If you look at the top, this piece of 13 interoffice correspondence is from Richard Rieger, 14 and it's dated January 15th, 1997, and there are a 15 bunch of addressees listed, among which we find you, 16 Ms. Haas. 17 A. Uh-huh. 18 Q. Taking a look at this document, do you 19 recall receiving it? 20 A. My name is on it. It probably arrived in 21 my in box. 22 Q. Just based on your review of this document</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. It goes -- Mr. Rieger goes on to say, 2 "Based upon input from several of you, I am 3 proposing the following agenda for the meeting," and 4 the first bullet point is discuss the average 5 wholesale price versus actual cost issue. Do you 6 see that there? 7 A. Yes. 8 Q. Okay. Now, this is the second memorandum 9 that we've seen today, Ms. Haas, where there's been 10 a reference to a discussion by the Medicare working 11 group about average wholesale price, correct? 12 A. Correct. 13 Q. So it's fair to say based on these 14 memoranda that there were multiple conversations 15 about the issue of average wholesale price held by 16 the Medicare working group. 17 MS. TABACCHI: Object to the form. 18 A. I would say so. 19 Q. Were you personally involved in more than 20 -- in meetings of the Medicare working group where 21 the issue of average wholesale price was discussed? 22 MS. TABACCHI: Object to the form.</p>

23 (Pages 86 to 89)

Henderson Legal Services
202-220-4158

Haas, Rosemary

August 30, 2007

Washington, DC

Page 90	Page 92
<p>1 A. I recall that I participated in three or 2 four of these meetings. I don't recall -- I do not 3 recall the subject matter of those meetings beyond 4 what we see here in front of us, and I did not 5 participate in those discussions. 6 Q. So you said three or four meetings. Are 7 you talking about three or four meetings of the 8 Medicare working group that -- where the issue of 9 AWP was discussed? 10 A. Three or four meetings of the Medicare 11 working group. I don't recall what the agenda 12 topics were. 13 Q. Let me ask you your best recollection. 14 Was the issue of AWP discussed multiple times -- was 15 AWP -- issue of AWP discussed in multiple meetings 16 that you participated in of the Medicare working 17 group? 18 MS. TABACCHI: I object to the form. 19 A. Possible. 20 Q. If you go to the bottom of the page there, 21 that paragraph after the bullet points, Mr. Rieger 22 goes on to write, "In preparation for the meeting, I</p>	<p>1 the President's budget request of fiscal year '98." 2 Do you see that there? 3 A. Yes. 4 Q. Do you recall seeing articles in I guess 5 this is now early 1997 regarding the Clinton 6 administration's proposed changes to the way 7 Medicare reimbursed drugs from using AWP to using 8 actual cost? 9 A. I recall that that was a significant topic 10 of discussion throughout that time frame, but I 11 don't recall specific articles or -- 12 Q. So it was a significant issue within the 13 pharmaceutical industry? 14 MS. TABACCHI: Object to the form. 15 BY MR. GOBENA: 16 Q. Let me strike that. Let me make it easier 17 for you. Was it a significant issue for Abbott 18 during this time frame? 19 MS. TABACCHI: Object to the form. 20 A. Not that I recall. 21 Q. Do you have any -- do you remember having 22 any conversations with anyone else in the Washington</p>
Page 91	Page 93
<p>1 am attaching two documents. The first document is 2 an article related to AWP and President Clinton's 3 expected 1998 budget proposal. This is in addition 4 to the documents that I previously sent you on 5 December 20th, 1996 regarding AWP and competitive 6 bidding." Do you see that there? 7 A. Yes. 8 Q. So does this language in Mr. Rieger's 9 memorandum refresh your recollection that President 10 Clinton was proposing changes to the way Medicare 11 reimbursed for drugs as part of his 1998 budget 12 proposal? 13 MS. TABACCHI: Object to the form. 14 A. Yes. 15 Q. And in fact, if you turn to the third page 16 of the exhibit, there's an article there where if 17 you go to the second paragraph of the -- or 18 actually, it's the first paragraph of the article, 19 it reads, in capital letters, "Clinton 20 administration expected to propose Medicare 21 outpatient drug," and then small letters, "Coverage 22 be based on actual cost rather than AWP as part of</p>	<p>1 affairs office about President Clinton's proposed 2 change to Medicare drug reimbursement to shift from 3 using AWP to using actual costs? 4 A. No, I do not recall. 5 Q. So you don't recall discussing the issue 6 of President Clinton's proposed change with, let's 7 say, Mr. Landside in this time frame? 8 A. I don't recall. 9 Q. And you don't recall having conversations 10 with Ms. Sensibaugh about this proposed Clinton 11 administration budget proposal to shift from using 12 AWP to actual cost? 13 A. I don't recall having that conversation. 14 Q. You're not testifying that you didn't have 15 it. You're just saying that you don't remember; is 16 that correct? 17 A. I don't remember. 18 Q. But you could have. 19 MS. TABACCHI: Object to the form. 20 BY MR. GOBENA: 21 Q. Sorry? 22 A. I don't remember.</p>

24 (Pages 90 to 93)

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 106</p> <p>1 of things, so I don't recall being asked anything 2 particularly related to e-mails. 3 Q. Were you given multiple instructions over 4 the years to preserve documents related to AWP? 5 A. I don't recall if there were multiples of 6 that. 7 Q. Do you recall definitely at some point 8 being asked to preserve? 9 A. Yes. 10 Q. But it's your testimony that you don't 11 recall whether you were asked more than once to 12 preserve. 13 A. Yes. 14 Q. And once you started using e-mail more 15 frequently, what kinds of measures did you use to 16 save those e-mails as they related to AWP issues? 17 A. I did not have significant e-mails on AWP 18 and I was never asked to preserve e-mails on AWP. 19 Ask me about drug importation. I have a lot of 20 files I'm saving on drug importation. 21 Q. Understood. I'm going to hand you what's 22 been previously marked as Plaintiff's 1125, and I'm</p>	<p style="text-align: right;">Page 108</p> <p>1 THE VIDEOGRAPHER: We're going off the 2 record. The time on the screen is 11:17:05. 3 (Discussion off the record) 4 THE VIDEOGRAPHER: We're back on the 5 record, 11:18:05. 6 BY MR. GOBENA: 7 Q. It's going to be -- actually, Ms. Haas, 8 can I have this document marked as 1351 and then 9 she'll hand it back to you and continue your review. 10 A. So I need to give this to -- 11 Q. To the court reporter. 12 (Plaintiff's Exhibit 1351 13 was marked for 14 identification.) 15 BY MR. GOBENA: 16 Q. Have you had a chance to review the 17 document, Ms. Haas? 18 A. Yes. 19 Q. On the first page, you'll see it's a 20 distribution list of the Medicare working group, and 21 you're listed there on the first page, correct? 22 A. Yes.</p>
<p style="text-align: right;">Page 107</p> <p>1 just going to ask you a couple quick questions on 2 it. We're not going to dwell on it. 3 MS. TABACCHI: I'm sorry, Gejaa. What 4 number is this? 5 MR. GOBENA: It's 1125. 6 MS. TABACCHI: Of course, it's right 7 there. 8 BY MR. GOBENA: 9 Q. It's a short memorandum, Ms. Haas. I just 10 want to know if you've ever seen this memorandum. 11 A. No, I don't recall seeing this memo. 12 Q. So I understood your testimony, because it 13 will help us go a lot faster, you didn't work at all 14 on the fiscal year '98 Clinton budget proposal that 15 would shift Medicare reimbursement for drugs from 16 AWP to actual costs? 17 A. I did not work on that issue. 18 Q. This has been marked as an exhibit 19 previously. I just don't know the exact number 20 right now. Let me take a moment here to check my 21 records and see if I can figure that out. Why don't 22 we go off the record.</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. And on the next page, we have a memorandum 2 from Mr. Rieger dated March 7th, 1997 that says -- 3 that's to the distribution list, which you're on, 4 and it says, "Re Medicare working group meeting 5 minutes, March 6th, 1997," and it goes on to read, 6 "Due to my absence at the most recent working group 7 meeting, Jim Miller drafted the meeting minutes and 8 they're attached for your review. As before, please 9 provide me with any changes that you would like 10 incorporated before we publish the final version of 11 the minutes." Do you see that? 12 A. Yes. 13 Q. Do you recall reviewing drafts of minutes 14 prepared after Medicare working group meetings? 15 A. I may have. 16 Q. Did you ever provide any comments on any 17 drafts of Medicare working group meeting minutes? 18 A. Not that I recall, and I would say that at 19 this point I was no longer really participating in 20 these meetings even though I'm on the distribution. 21 Q. And why do you say that, Ms. Haas? 22 A. Because I was involved in other issues and</p>

28 (Pages 106 to 109)

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 110</p> <p>1 I was not working on these particular issues. 2 Q. What particular issues had you started to 3 work on in March of 1997 that took you away from the 4 Medicare working group? 5 A. Part of it was we felt that we didn't need 6 to have three of us on these calls. As you'll see 7 on the distribution list, we're listed separately as 8 the D.C. Washington office, and we just felt it 9 didn't make sense to have three of us all on these 10 calls. 11 Q. So there were times when there were 12 Medicare working group meetings where your office 13 participated where three of you, Mr. Landside, 14 Ms. Sensibaugh and you, were all participating on 15 the same call? 16 A. Perhaps earlier in the inception of these 17 groups, but as it went along, it -- we felt we 18 needed to have at least one person on those calls. 19 I don't recall which meetings I sat in on and which 20 I didn't. 21 Q. And if you didn't sit in on a meeting, who 22 was more likely to sit in, Mr. Landside or</p>	<p style="text-align: right;">Page 112</p> <p>1 reimbursement price for drugs administered in 2 physicians' offices from AWP." Do you see that 3 there? 4 A. Yes. 5 Q. By my count, this is the third meeting now 6 that was held -- that the Medicare working group 7 meeting held where the issue of AWP was discussed. 8 Is that consistent with your understanding as well? 9 A. Based upon -- 10 MS. TABACCHI: Object to the form. 11 A. Based upon what we looked at, yes. 12 Q. The next paragraph reads, "Abbott," slash, 13 "TAP has approximately 900 million plus of sales 14 which would be affected by this proposal. The two 15 largest products are Lupron and Calcijex." Do you 16 see that there? 17 A. Yes. 18 Q. Do you recall being in any Medicare 19 working group meetings where the issue of Medicare 20 reimbursement for Lupron was discussed? 21 A. No. 22 Q. How about any Medicare working group</p>
<p style="text-align: right;">Page 111</p> <p>1 Ms. Sensibaugh, to your knowledge? 2 A. At that point it would have probably been 3 Cindy or myself. 4 Q. Is it likely that in connection with this 5 March '97 meeting, either you or Ms. Sensibaugh 6 would have participated in this Medicare working 7 group meeting? 8 A. I don't recall participating, and I don't 9 know if Cindy participated. 10 Q. Well, let's go through the meeting minutes 11 and see if that refreshes your recollection as to 12 your potential participation in the meeting that's 13 discussed here. If you go to the -- we're on the 14 third page here, ABT 52841, and it says, Medicare -- 15 in the re line, "Medicare working group meeting 16 minutes," dated March 6th, 1997, and so this 17 memorandum's referencing a meeting that happened on 18 March 6th. Is that your understanding as well? 19 A. That's what it says. 20 Q. Okay. It goes on to say, The following is 21 a summary of the discussions which occurred at the 22 meeting." The first bullet point, "Changing</p>	<p style="text-align: right;">Page 113</p> <p>1 meetings where the issue of reimbursement for 2 Calcijex was discussed? 3 A. No. 4 Q. Did you participate in any Medicare 5 working group meetings where issues related to TAP 6 Pharmaceuticals was discussed? 7 A. No. 8 Q. If you go to the last paragraph under this 9 bullet point, it reads, "The group consensus was 10 that," quote, "acquisition cost plus," unquote, 11 "would be the least unfavorable alternative to the 12 current Abbott TAP business." Do you see that 13 there? 14 A. Yes. 15 Q. Do you recall participating in any 16 Medicare working group meetings where discussion of 17 the -- of acquisition cost plus as a way of 18 reimbursing for drugs under Medicare was discussed? 19 A. No, I do not. 20 Q. Did you -- do you recall having any 21 discussions within the Washington affairs office, 22 anyone in the Washington affairs office, about the</p>

29 (Pages 110 to 113)

Haas, Rosemary

August 30, 2007

Washington, DC

<p style="text-align: right;">Page 262</p> <p>1 warrant such questioning, and I will pass the</p> <p>2 witness to my colleague, Mr. Rand, representing</p> <p>3 Ven-a-Care of the Florida Keys.</p> <p>4 MR. RIKLIN: How much tape do we have</p> <p>5 left?</p> <p>6 THE VIDEOGRAPHER: We have 19 minutes.</p> <p>7 Would you like to change it now?</p> <p>8 MR. RIKLIN: Yeah, why don't we take a</p> <p>9 break and then start with the new tape.</p> <p>10 THE VIDEOGRAPHER: Here marks the end of</p> <p>11 Videotape Number 4. We're going off the record.</p> <p>12 The time is 15:32:35.</p> <p>13 (Recessed at 3:32 p.m.)</p> <p>14 (Reconvened at 3:41 p.m.)</p> <p>15 THE VIDEOGRAPHER: Here marks the</p> <p>16 beginning of Videotape Number 5 in the deposition of</p> <p>17 Rosemary Haas. The time on the screen is 15:41:22.</p> <p>18 You're on the record.</p> <p>19 EXAMINATION BY COUNSEL FOR</p> <p>20 VEN-A-CARE OF THE FLORIDA KEYS, INC.</p> <p>21 BY MR. RIKLIN:</p> <p>22 Q. Good afternoon, Ms. Haas. How are you?</p>	<p style="text-align: right;">Page 264</p> <p>1 see. Here's one from Rieger. What exhibit did you</p> <p>2 say?</p> <p>3 Q. 1170. It's one of the first documents</p> <p>4 that was introduced this morning.</p> <p>5 A. Sorry. I would have put them in order on</p> <p>6 the break.</p> <p>7 Q. Not a problem. It's a December 13, 1996</p> <p>8 memo, interoffice correspondence from --</p> <p>9 A. Okay, we got it.</p> <p>10 Q. Okay, all right, and you're shown as a</p> <p>11 recipient of that memo, correct?</p> <p>12 A. Yes.</p> <p>13 Q. At the time, you were a member of the</p> <p>14 Medicare working group committee or group.</p> <p>15 A. Yes.</p> <p>16 Q. And the subject line says, "Medicare</p> <p>17 working group meeting, 12/16/1996," and it -- and</p> <p>18 Mr. Rieger starts off, "In preparation for next</p> <p>19 week's meeting." Does that indicate to you that</p> <p>20 there was a Medicare working group meeting on</p> <p>21 December 12 -- excuse me, December 16, 1996?</p> <p>22 A. That's what this says, yes.</p>
<p style="text-align: right;">Page 263</p> <p>1 Ms. Haas, my questioning won't be nearly as lengthy</p> <p>2 as Mr. Gobena's because he's covered a lot of ground</p> <p>3 I would have covered had I gone first, but there are</p> <p>4 some things I'd like to clarify, and there probably</p> <p>5 are -- I can tell you, there will be a few documents</p> <p>6 that I want to talk to you that Mr. Gobena has not</p> <p>7 -- did not introduce to you, present to you.</p> <p>8 Earlier, you told us that you at least at some point</p> <p>9 participated in the Medicare working group meetings</p> <p>10 at least by telephone, correct?</p> <p>11 A. Yes, correct.</p> <p>12 Q. Was one of the purposes of the Medicare</p> <p>13 working group to monitor any changes that Congress</p> <p>14 was considering to Medicare reimbursement?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Take a look at Exhibit 1170, which</p> <p>17 is a December 13, 1996 memo from Richard Rieger to</p> <p>18 the Medicare working group.</p> <p>19 A. I guess I should have kept these in order.</p> <p>20 Q. Yeah. You were shown that document</p> <p>21 earlier.</p> <p>22 A. I just didn't keep them in order. Let's</p>	<p style="text-align: right;">Page 265</p> <p>1 Q. Okay, and I realize you don't recall</p> <p>2 whether -- or did you say you thought you did</p> <p>3 participate by telephone in connection with this</p> <p>4 meeting?</p> <p>5 A. I don't recall.</p> <p>6 Q. Okay.</p> <p>7 A. I know I participated in some.</p> <p>8 Q. During this time period, you did</p> <p>9 participate in at least some --</p> <p>10 A. Yes.</p> <p>11 Q. -- Medicare working group meetings by</p> <p>12 telephone, correct?</p> <p>13 A. Yes, correct.</p> <p>14 Q. Because some of these people were in</p> <p>15 Chicago at the time, and then you and your</p> <p>16 colleagues in government affairs were in Washington.</p> <p>17 A. Correct.</p> <p>18 Q. Okay. Mr. Rieger states that, "For next</p> <p>19 week's meeting, we would like to propose the</p> <p>20 following agenda," and then he has three bullet</p> <p>21 points, correct?</p> <p>22 A. Yes.</p>

67 (Pages 262 to 265)

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